

The Honorable Thomas S. Zilly

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES, in its own right and on
behalf of the Lummi Indian Nation,

Plaintiff,

LUMMI INDIAN NATION,

Plaintiff-Intervenor,

No. C01-0047Z

v.

WASHINGTON, DEPARTMENT
OF ECOLOGY, et al.

**PROPOSED JUDGMENT
AND ORDER**

Defendants.

The Lummi Nation (Nation), on behalf of itself and its members, the United States, in its capacity as trustee for the Lummi Nation and individual Indians for whom the United States owns land in trust or restricted fee status, the State of Washington Department of Ecology (Department of Ecology), Whatcom County, and certain individual landowners and water associations having reached a settlement agreement; these parties having stipulated to entry of this judgment; this Court having reviewed and considered the substance of said Settlement Agreement; and other parties to this action having been given the opportunity to be heard on this matter,

1 IT IS ORDERED AND ADJUDGED:

2
3 The Court approves the Settlement Agreement in its entirety.

4
5 The Court finds that this case involves many complicated and contentious issues.
6 The issues and the parties' respective positions are set forth in their respective pleadings,
7 including the complaints filed by the United States and the Lummi Nation and the
8 various answers filed by those Defendants who have answered the Plaintiffs' complaints.
9 While the settlement reached by the parties avoids the need for the Court to resolve these
10 issues, the Court, in entering this Judgment and Order, finds that water is a basic human
11 necessity which is required by the Lummi Nation and its members, as well as the many
12 non-Indian Defendant home owners and land owners in the case area. Without deciding
13 the many complicated issues, the Court does find, based upon the Settlement Agreement
14 reached by the parties, that groundwater is of a limited nature in the Case Area and that
15 the parties' Settlement Agreement sets forth a reasonable and fair division of the
16 groundwater resources underlying the Case Area. The Court finds that the Settlement
17 Agreement also sets forth a reasonable and comprehensive regulatory scheme for
18 regulation of the groundwater underlying the case area so as to ensure that both the Tribal
19 and non-tribal groundwater allocations under the Settlement Agreement are protected
20 against the threat of salt water intrusion, thereby ensuring that all sides receive the benefit
21 of their respective water allocations.
22

23
24 The court also finds that evidence exists from which the Court could determine
25 that the federal reserved rights held by the United States in trust for the Lummi Nation
26 and for individual Indians for whom the United States owns land in trust or restricted fee
27 status in the Case Area would not be protected if limits were not placed on the amount of
28

1 groundwater withdrawals within the Case Area by persons who are not members of the
2 Lummi Nation, if wells currently exempt from Washington State permitting
3 requirements, or other wells were permitted to be drilled without adequate regulatory
4 control, and if the chloride levels in the aquifer were not limited as set forth in the
5 Settlement Agreement and this Order.

6
7 The "Case Area" in this action is that portion of the Lummi Indian Reservation
8 indicated on the attached legal description and map.
9

10 From the date of entry of this Judgment and Order, all groundwater use and
11 regulation of groundwater use within the Case Area shall be governed by the provisions
12 of this Judgment and Order and the Settlement Agreement between the parties. Any
13 groundwater use not consistent with the requirements of this Judgment and Order and the
14 Settlement Agreement, including uses otherwise justified under state or federal law, are
15 hereby enjoined.
16

17
18 All parties, all persons and entities bound by this Judgment and Order, and all
19 their heirs, successors and assigns are hereby ordered to take all actions required by the
20 Settlement Agreement and this Order, and enjoined from taking any actions inconsistent
21 with the Settlement Agreement and this Order.
22

23 The Department of Ecology may allocate up to 120 acre feet per year of
24 groundwater within the Case Area, pursuant to the terms described in the Settlement
25 Agreement. Any adjustments to the 120 acre feet allocation resulting from land transfers
26 or other actions shall be made pursuant to the terms of the Settlement Agreement.
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1 All groundwater within the Case Area not part of the Department of Ecology's
2 allocation described above is federal Indian reserved water, which shall be held in trust
3 by the United States, as trustee for the Lummi Nation and individual Indians for whom
4 the United States owns land in trust or restricted fee status. This federal Indian reserved
5 water derives, in part, from the 1855 Treaty of Point Elliott, and shall carry a priority date
6 of not later than 1855. The United States as trustee, the Lummi Nation, and individual
7 Indians for whom the United States holds land in trust or restricted fee status, shall have
8 the perpetual right to use this federal Indian reserved water for any legal purpose, subject
9 to the limitations imposed by the Settlement Agreement.
10

11 A Water Master shall be appointed to carry out and enforce the provisions of this
12 Judgment and Order and accompanying Settlement Agreement. The Water Master shall
13 have the authority, consistent with the procedural and other provisions in the Settlement
14 Agreement, to shut down any wells whose use is not consistent with this Judgment and
15 Order and the accompanying Settlement Agreement, including, but not limited to,
16 withdrawal of water from unmetered wells, withdrawal of water in excess of individual
17 quantity agreements as specified in the Settlement Agreement, and withdrawals of water
18 in conflict with the chlorides protocol in the Settlement Agreement. The Water Master
19 shall also have the authority to impose other penalties and take other enforcement actions
20 as necessary to implement the terms of this Judgment and Order and accompanying
21 Settlement Agreement. The Water Master shall not have the authority to impose fines or
22 monetary penalties on Ecology, the Lummi Nation, the United States, or Whatcom
23 County when acting in their governmental capacities as regulators.
24
25

26 The Water Master shall have the authority to resolve all disputes between parties
27 where the resolution of such disputes can be made by reference to the terms of this
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1 Judgment and Order and accompanying Settlement Agreement. The Water Master's
2 authority to resolve disputes includes, but is not limited to, reviewing water permits and
3 well registrations issued by the Department of Ecology and new well decisions made by
4 the Nation or the United States for compatibility with this Judgment and Order and the
5 accompanying Settlement Agreement, as well as resolving claims that either the Nation
6 or the Department of Ecology has failed to take enforcement actions mandated by the
7 Settlement Agreement.
8

9
10 The budget for the Water Master shall be set by agreement between the Nation
11 and Ecology on an annual basis, with input from the Water Master. If the Nation and
12 Ecology cannot agree on the amount of the budget for a particular year, the amount of the
13 budget shall be determined by the Court. The amount of the annual budget shall be
14 consistent with the requirements and limitations imposed by the Settlement Agreement.
15

16 The Water Master's annual costs shall be paid by the Nation, Department of
17 Ecology, and individual landowners (or their heirs, assigns, and successors in interest)
18 pursuant to the terms set forth in the Settlement Agreement. The Water Master is
19 authorized to take appropriate collection action against any party who fails to pay his or
20 her portion of the budgeted cost.
21

22 The Water Master shall have the authority to issue orders or take any other action
23 necessary to enforce the terms of the Settlement Agreement and this Order.
24

25 Any person feeling aggrieved by any action or order of the Water Master may
26 appeal to the Court, after service of a copy of such appeal on the Water Master, Ecology,
27 the Nation, and any other party to be served pursuant to the Settlement Agreement, and
28

1 the Court shall promptly review such action and order for consistency with this Judgment
2 and Order and accompanying Settlement Agreement.

3
4 This Judgment and Order applies to Case Area groundwater only. It has no effect
5 on current or potential claims of any party to any other water source in any other action,
6 except to the extent that such claims interfere with the exercise of groundwater rights
7 described in the Settlement Agreement.

8
9 This Judgment and Order resolves, inter alia, the federal law treaty-based claims
10 of the Nation, its members, and the United States, as trustee for the Nation and individual
11 Indians for whom the United States holds land in trust or restricted status within the Case
12 Area, to the groundwater and use of groundwater within the Case Area.

13
14 All settlements previously approved by the Court are unaffected by this
15 Judgment. This Judgment and Order shall be binding on all parties to this action, and all
16 their heirs, assigns, and successors in interest.

17
18 The Court, upon motion of all the settling parties, after considering the factors set
19 forth in *Ringsby Truck Lines, Inc. v. Western Conference of Teamsters*, 686 F.2d 720,
20 722 (9th Cir. 1982), concludes that its Order of May 20, 2005, and its Amended Order of
21 June 23, 2005, should be, and hereby are, vacated and that such Orders shall be of no
22 preclusive effect as to any party, any person or entity bound by this Judgment and Order,
23 and any of their heirs, successors, and assigns.

24
25 Nothing herein shall be construed to create tribal jurisdiction as to any party
26 where such jurisdiction would not otherwise exist, except as may be necessary to enforce
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1 the obligations of users of the Lummi Tribal Water District water distribution system.
2 The Settlement Agreement and this Judgment and Order shall not be construed to affect
3 jurisdiction as described in *Montana v. United States*, 450 U.S. 544, 101 S.Ct. 1245, 67
4 L.Ed.2d 493 (1981).

5
6 The Court shall retain continuing jurisdiction of this case to resolve matters
7 appealed to it from decisions of the Water Master, to modify this Judgment and Order
8 upon motion of the parties, to resolve disputes regarding the annual budget of the Water
9 Master, or to consider motions to replace a Water Master for failure to faithfully
10 implement the terms of this Judgment and Order and accompanying Settlement
11 Agreement.
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13
14 All parties shall bear their own costs and attorney fees incurred in this matter.
15
16

17 UNITED STATES DISTRICT COURT
18

19 Dated: _____

20 Thomas S. Zilly
21
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EXHIBIT A

Legal Description and Map of Case Area

(5 pages)



Pacific Surveying & Engineering, Inc

land surveying • civil engineering • consulting • planning • gis
1812 Cornwall Avenue, Bellingham, WA 98225

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LUMMI PENINSULA CASE AREA DESCRIPTION

THAT PORTION OF THE LUMMI PENINSULA LYING UPLAND OF THE ORDINARY HIGH WATER MARK OF LUMMI BAY, HALE PASSAGE, PORTAGE CHANNEL AND BELLINGHAM BAY, BEING PORTIONS OF SECTIONS 1, 2, 3, 11, TOWNSHIP 37 NORTH, RANGE 1 EAST, W.M.; SECTIONS 11, 12, 13, 14, 24, 25, 26, 27, 34, 35, 36, TOWNSHIP 38 NORTH, RANGE 1 EAST, W.M.; AND SECTIONS 7, 18, 19, 30, TOWNSHIP 38 NORTH, RANGE 2 EAST, W.M., BOUND ON THE EAST BY THE WESTERLY ORDINARY HIGH WATER MARK OF KWINA SLOUGH AND SLATER SLOUGH, AND BOUND ON THE EAST AND NORTH BY THE FOLLOWING DESCRIBED LINE;

BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF SECTION 30, TOWNSHIP 38 NORTH, RANGE 2 EAST, W.M., AND THE NORTHERLY ORDINARY HIGH WATER MARK OF PORTAGE CHANNEL; THENCE NORTHERLY ALONG SAID ORDINARY HIGH WATER MARK OF PORTAGE CHANNEL AND BELLINGHAM BAY TO THE CONFLUENCE WITH KWINA SLOUGH; THENCE NORTHERLY ALONG THE WESTERLY ORDINARY HIGH WATER MARK OF KWINA SLOUGH TO THE CONFLUENCE WITH SLATER SLOUGH; THENCE NORTHERLY ALONG THE WESTERLY ORDINARY HIGH WATER MARK OF SLATER SLOUGH TO THE INTERSECTION OF SAID ORDINARY HIGH WATER MARK AND THE NORTH LINE OF THE FOLLOWING DESCRIBED TRACT, BEING THE NORTH LINE OF THE SOUTH HALF OF SAID SECTION 7, THENCE WESTERLY ALONG THE NORTH LINE OF THE FOLLOWING DESCRIBED TRACT;

THE WEST HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 1 EAST, AND THE NORTH HALF OF THE NORTH HALF OF LOTS 8 AND 9 OF SECTION 7, TOWNSHIP 38 NORTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, WHATCOM COUNTY, WASHINGTON, EXCEPT A 2.00-ACRE PARCEL OF LAND WITHIN LOT 9 OF SECTION 7, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE ONE QUARTER SECTION LINE, 408 FEET EAST OF THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 7; THENCE WEST A DISTANCE OF 178 FEET; THENCE SOUTH 290 FEET; THENCE EAST 433 FEET; THENCE NORTH 180 FEET; THENCE WEST 219 FEET TO THE WEST BOUNDARY OF THE COUNTY ROAD; THENCE IN A NORTHWESTERLY DIRECTION ALONG THE WEST SIDE OF SAID COUNTY ROAD 110 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, CONTAINING 41.34 ACRES, MORE OR LESS, AFTER THE ABOVE EXCEPTION.

THENCE NORTHERLY ALONG THE EAST LINE, NORTHWESTERLY ALONG THE SOUTH BANK OF SMUGGLER SLOUGH, AND WESTERLY ALONG THE NORTH LINE OF THE FOLLOWING DESCRIBED TRACT;

THAT PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER LYING SOUTH AND WEST OF SMUGGLER SLOUGH IN SECTION 7, TOWNSHIP 38 NORTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, WHATCOM COUNTY, WASHINGTON, EXCEPT THE FOLLOWING DESCRIBED PARCEL OF LAND: BEGINNING AT THE CENTER OF SECTION 7, THENCE WEST 436 FEET; THENCE NORTH TO THE SOUTH BANK OF SMUGGLER SLOUGH; THENCE SOUTHEASTLY ALONG THE SOUTH BANK OF SMUGGLER SLOUGH TO THE NORTH-SOUTH CENTER LINE OF SAID SECTION 7; THENCE SOUTH TO THE POINT OF BEGINNING, CONTAINING 4.00 ACRES, MORE OR LESS; CONTAINING 26.28 ACRES, MORE OR LESS, AFTER THE ABOVE EXCEPTIONS.

THENCE CONTINUING WESTERLY ALONG THE NORTH LINE, BEING THE NORTH LINE OF GOVERNMENT LOT 4 OF SAID SECTION 7, OF THE FOLLOWING DESCRIBED TRACT TO THE WEST LINE OF SAID SECTION 7;

THE NORTH HALF OF LOT 4, IN SECTION 7, TOWNSHIP 38 NORTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, WHATCOM COUNTY, WASHINGTON, CONTAINING 17.18 ACRES, MORE OR LESS.

THENCE CONTINUING WESTERLY ALONG THE NORTH LINE, BEING THE NORTH LINE OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 12, OF THE FOLLOWING DESCRIBED TRACT TO THE SOUTHWESTERLY MARGIN OF THE LUMMI SHORE ROAD RIGHT OF WAY;

THE NORTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 1 EAST, WILLAMETTE MERIDIAN, WHATCOM COUNTY, WASHINGTON, EXCEPT THAT PARCEL OF LAND DESCRIBED AS FOLLOWS: BEGINNING AT THE POINT OF INTERSECTION OF THE SOUTH LINE OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER, SECTION 12, WITH THE SOUTHWESTERLY LINE OF LUMMI SHORE ROAD; THENCE NORTH $49^{\circ}32'$ WEST, ALONG THE SOUTHWESTERLY LINE OF LUMMI SHORE ROAD, 451.95 FEET; THENCE SOUTH $40^{\circ}28'$ WEST, AT RIGHT ANGLES TO THE LUMMI SHORE ROAD, 385.55 FEET TO THE SOUTH LINE OF THE SAID NORTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 12, THENCE EAST ALONG THE SOUTH LINE OF THE SAID NORTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 12, 594.06 FEET TO THE POINT OF BEGINNING, CONTAINING 2.00 ACRES, MORE OR LESS. CONTAINING 18.00 ACRES, MORE OR LESS, AFTER THE ABOVE EXCEPTION.

THENCE NORTHWESTERLY ALONG SAID SOUTHWESTERLY MARGIN OF THE LUMMI SHORE ROAD RIGHT OF WAY TO THE NORTH LINE OF FOLLOWING DESCRIBED TRACT, THENCE WESTERLY ALONG THE NORTH LINE OF THE FOLLOWING DESCRIBED TRACT, TO THE EAST MARGIN OF THE HAXTON WAY RIGHT OF WAY;

THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 1 EAST, WILLAMETTE MERIDIAN, WHATCOM COUNTY, WASHINGTON, EXCEPT A 2.00-ACRE PARCEL, MORE OR LESS, DESCRIBED AS: BEGINNING AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 12; THENCE EAST 175 FEET TO THE WEST LINE OF THE COUNTY ROAD; THENCE SOUTHEAST ALONG SAID WEST LINE 375 FEET; THENCE WEST 435 FEET TO THE WEST LINE OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER; THENCE NORTH 285 FEET TO THE POINT OF BEGINNING, AND EXCEPT A 2.57-ACRE PARCEL, MORE OR LESS, DESCRIBED AS: BEGINNING AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 12; THENCE EAST 175 FEET TO THE WEST LINE OF LUMMI SHORE ROAD; THENCE SOUTHEAST ALONG SAID WEST LINE 375 FEET TO THE TRUE POINT OF BEGINNING; THENCE WEST 435 FEET, MORE OR LESS, TO THE WEST LINE OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER; THENCE SOUTH ALONG SAID WEST LINE 208 FEET; THENCE EAST ALONG A LINE PARALLEL TO THE NORTH LINE OF THIS TRACT TO THE WEST LINE OF SAID LUMMI SHORE ROAD THENCE NORTHWEST ALONG SAID WEST LINE OF LUMMI SHORE ROAD TO THE TRUE POINT OF BEGINNING, AND EXCEPT A 3.00-ACRE PARCEL, MORE OR LESS, DESCRIBED AS: BEGINNING AT THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 12; THENCE WEST 300 FEET; THENCE NORTH TO THE SOUTH BOUNDARY OF THE COUNTY ROAD; THENCE IN A SOUTHEASTERLY DIRECTION ALONG THE BOUNDARY OF SAID ROAD TO A POINT WHICH BEARS NORTH OF THE POINT OF BEGINNING; THENCE SOUTH TO THE POINT OF BEGINNING, CONTAINING 32.43 ACRES, MORE OR LESS, AFTER THE ABOVE THREE EXCEPTIONS.

THENCE SOUTHERLY ALONG THE EASTERLY MARGIN OF THE SAID HAXTON WAY RIGHT OF WAY TO THE INTERSECTION OF THE NORTH LINE OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF SAID SECTION 12, THENCE WESTERLY ALONG THE NORTH LINE OF THE SAID SOUTH HALF OF THE NORTHWEST QUARTER TO THE WEST LINE OF THE FOLLOWING DESCRIBED TRACT; THENCE SOUTHERLY ALONG THE WEST LINE OF THE FOLLOWING DESCRIBED TRACT TO THE SOUTH LINE OF THE FOLLOWING DESCRIBED TRACT;

THAT PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 11, AND THOSE PARTS OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, OF THE NORTH HALF OF THE SOUTHWEST QUARTER, AND OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 1 EAST, WILLAMETTE MERIDIAN, WHATCOM COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS: PARCEL A: BEGINNING AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, RUNNING THENCE EAST A DISTANCE OF 587 FEET; THENCE NORTH 1320 FEET; THENCE WEST TO THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 12; THENCE SOUTH 1320 FEET TO THE POINT OF BEGINNING, EXCEPT ROAD AND EXCEPT THAT PORTION THEREOF, IF ANY, LYING NORTH OF THE NORTH LINE OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 12, PARCEL B: BEGINNING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, RUNNING THENCE EAST 513 FEET; THENCE SOUTH 660 FEET; THENCE WEST 1833 FEET; THENCE NORTH 660 FEET; THENCE EAST 1320 FEET TO THE POINT OF BEGINNING, EXCEPT ROAD AND EXCEPT THAT PORTION THEREOF, IF ANY, LYING WEST OF THE WEST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 11, SAID TOWNSHIP AND RANGE, AND SOUTH OF THE SOUTH LINE OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 11, AND SOUTH LINE OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 12, PARCEL C: BEGINNING AT A POINT 587 FEET EAST OF THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 12, RUNNING THENCE SOUTH 2640 FEET; THENCE EAST 2053 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER.

THENCE WESTERLY ALONG THE NORTH LINE OF THE FOLLOWING DESCRIBED TRACT TO THE WEST LINE OF SAID SECTION 12; THENCE SOUTHERLY ALONG THE WEST LINE, BEING THE WEST LINE OF SAID SECTION 12, OF THE FOLLOWING DESCRIBED TRACT;

THAT PART OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 1 EAST, WILLAMETTE MERIDIAN, WHATCOM COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 12, THENCE RUNNING SOUTH A DISTANCE OF 660.0 TO POINT OF BEGINNING, THENCE EAST 587.0 FEET, THENCE SOUTH 660.0 FEET, THENCE WEST 587.0 FEET THENCE, NORTH 660.0 FEET TO THE PLACE OF BEGINNING CONTAINING 8.90 ACRES, MORE OR LESS.

THENCE CONTINUING SOUTHERLY ALONG THE WEST LINE OF SAID SECTION 12 TO THE INTERSECTION OF THE WEST LINE OF SAID SECTION 12 AND THE SOUTH MARGIN OF THE KWINA ROAD RIGHT OF WAY;

THENCE WESTERLY ALONG THE SOUTH MARGIN OF THE KWINA ROAD RIGHT OF WAY TO THE WEST LINE, BEING THE WEST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 11, OF THE FOLLOWING DESCRIBED TRACT;

THAT PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 11, AND THOSE PARTS OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, OF THE NORTH HALF OF THE SOUTHWEST QUARTER, AND OF THE

SOUTH HALF OF THE NORTHWEST QUARTER OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 1 EAST, WILLAMETTE MERIDIAN, WHATCOM COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS: PARCEL A: BEGINNING AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, RUNNING THENCE EAST A DISTANCE OF 587 FEET; THENCE NORTH 1320 FEET; THENCE WEST TO THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 12; THENCE SOUTH 1320 FEET TO THE POINT OF BEGINNING, EXCEPT ROAD AND EXCEPT THAT PORTION THEREOF, IF ANY, LYING NORTH OF THE NORTH LINE OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 12,

PARCEL B: BEGINNING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, RUNNING THENCE EAST 513 FEET; THENCE SOUTH 660 FEET; THENCE WEST 1833 FEET; THENCE NORTH 660 FEET; THENCE EAST 1320 FEET TO THE POINT OF BEGINNING, EXCEPT ROAD AND EXCEPT THAT PORTION THEREOF, IF ANY, LYING WEST OF THE WEST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 11, SAID TOWNSHIP AND RANGE, AND SOUTH OF THE SOUTH LINE OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 11, AND SOUTH LINE OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 12,

PARCEL C: BEGINNING AT A POINT 587 FEET EAST OF THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 12, RUNNING THENCE SOUTH 2640 FEET; THENCE EAST 2053 FEET TO THE SOUTHEAST CONER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER.

THENCE SOUTHERLY ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 11 TO THE INTERSECTION OF THE SOUTH LINE OF SAID SECTION 11 AND THE SOUTHERLY ORDINARY HIGH WATER MARK OF THE SOUTHWESTERLY RUNNING SLOUGH; THENCE SOUTHWESTERLY ALONG THE ORDINARY HIGH WATER MARK OF SAID SLOUGH, BEING THE NORTH BOUNDARY OF GOVERNMENT LOTS 1, 2, AND 5 OF SECTION 14, TOWNSHIP 38 NORTH, RANGE 1 EAST, W.M., TO THE EASTERLY HIGH WATER MARK OF LUMMI BAY.

EXCEPT THEREFROM THE ARTIFICIAL LUMMI AQUICULTURE DIKE, AND EXCEPT THEREFROM PORTAGE ISLAND LYING SOUTH OF PORTAGE POINT.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

THE ABOVE DESCRIBED AREA IS DEPICTED GRAPHICALLY ON THE ATTACHED LUMMI PENINSULA CASE AREA EXHIBIT MAP FOR FURTHER REFERENCE.



Case Area Boundary

